

CHAPTER 4

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 93S-1017

BY REPRESENTATIVES Armstrong, Greenwood, Hagedorn, and Pflifner;
also SENATOR Ruddick.

AN ACT

CONCERNING A SURCHARGE ON FINES IMPOSED ON JUVENILES CONVICTED AS ADULTS OF VIOLENT CRIMES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 22
Juvenile Offender Surcharge

18-22-101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE COMMISSION OF VIOLENT CRIMES BY JUVENILES EXACTS AN UNACCEPTABLE TOLL ON THE FISCAL RESOURCES OF BOTH STATE AND LOCAL GOVERNMENT AND THEREBY INCREASES THE FINANCIAL BURDEN UPON THE TAXPAYERS OF THIS STATE. IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS ARTICLE TO REQUIRE, AS MUCH AS POSSIBLE, THAT JUVENILES CONVICTED AS ADULTS OF VIOLENT CRIMES PAY FOR THE COST OF THE REHABILITATION, EDUCATION, AND TREATMENT OF JUVENILES SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM OR COMMITTED TO THE DEPARTMENT OF INSTITUTIONS.

18-22-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONVICTED" AND "CONVICTION" MEANS A PLEA OF GUILTY, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION 16-7-403, C.R.S., OR A VERDICT OF GUILTY BY A JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) "JUVENILE" MEANS A PERSON UNDER THE AGE OF EIGHTEEN YEARS.

(3) "VIOLENT CRIME" MEANS A FELONY ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION 16-11-309, C.R.S., OR A FELONY INVOLVING A WEAPON OR FIREARM.

18-22-103. Source of revenues - allocation of moneys. (1) EACH JUVENILE WHO IS CONVICTED AS AN ADULT OF A VIOLENT CRIME SHALL BE REQUIRED TO PAY A SURCHARGE TO THE CLERK OF THE COURT IN WHICH THE CONVICTION OCCURS IN AN AMOUNT EQUAL TO ANY FINE IMPOSED BY SUCH COURT.

(2) THE CLERK OF THE COURT SHALL ALLOCATE THE SURCHARGE REQUIRED BY SUBSECTION (1) OF THIS SECTION AS FOLLOWS:

(a) FIVE PERCENT SHALL BE RETAINED BY THE CLERK FOR ADMINISTRATIVE COSTS INCURRED PURSUANT TO THIS SECTION. SUCH AMOUNT RETAINED SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND, AND SUCH AMOUNT SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE COSTS OF SUCH ADMINISTRATION.

(b) NINETY-FIVE PERCENT SHALL BE TRANSFERRED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE YOUTHFUL OFFENDER SYSTEM SURCHARGE FUND CREATED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) THERE IS HEREBY CREATED IN THE STATE TREASURY A YOUTHFUL OFFENDER SYSTEM SURCHARGE FUND WHICH SHALL CONSIST OF MONEYS RECEIVED BY THE STATE TREASURER PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION. IN ACCORDANCE WITH SECTION 24-36-114, C.R.S., ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF THIS FUND SHALL BE CREDITED TO THE GENERAL FUND. ANY MONEYS NOT APPROPRIATED BY THE GENERAL ASSEMBLY SHALL REMAIN IN THE YOUTHFUL OFFENDER SYSTEM SURCHARGE FUND AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR. IN THE EVENT A YOUTHFUL OFFENDER SYSTEM IS CREATED PURSUANT TO A BILL INTRODUCED AT THE FIRST EXTRAORDINARY SESSION OF THE FIFTY-NINTH GENERAL ASSEMBLY WHICH IS ENACTED AND BECOMES LAW, ALL MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF CORRECTIONS TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE REHABILITATION, EDUCATION, AND TREATMENT OF YOUTHFUL OFFENDERS SENTENCED TO A YOUTHFUL OFFENDER SYSTEM. IN THE EVENT A YOUTHFUL OFFENDER SYSTEM IS NOT CREATED PURSUANT TO A BILL INTRODUCED AT THE FIRST EXTRAORDINARY SESSION OF THE FIFTY-NINTH GENERAL ASSEMBLY WHICH IS ENACTED AND BECOMES LAW, THEN ALL MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF INSTITUTIONS TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE REHABILITATION, EDUCATION, AND TREATMENT OF JUVENILE OFFENDERS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS.

(4) A SURCHARGE ASSESSED BY THE COURT PURSUANT TO THIS SECTION MAY

BE COLLECTED IN THE SAME MANNER AS A JUDGMENT IN A CIVIL ACTION AND THE COURT SHALL ORDER THE DISTRICT ATTORNEY TO INSTITUTE PROCEEDINGS TO COLLECT SUCH SURCHARGE IF THE COURT FINDS THAT A JUVENILE CONVICTED AS AN ADULT OF A VIOLENT CRIME IS FINANCIALLY UNABLE TO PAY ALL OR ANY PORTION OF SUCH SURCHARGE AT THE TIME OF SENTENCING.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: September 13, 1993